

FINANCING OF SPACE ASSETS; UNIDROIT CONVENTION'S REGISTRY OF INTERNATIONAL FINANCIAL INTERESTS IN SPACE PROPERTY

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I. Proposed UNIDROIT Convention on Security Interests in Mobile Equipment

A. Background

International competition in the space industry is increasing rapidly as the consumer demand for more satellite services grows, especially in the satellite communications business. In the past satellite services were financed primarily out of public funds by governments and by international governmental organizations. The international space business increasingly is being privatized and privately financed. However, international business in space assets is impeded by the lack of asset-based financing. Under the United States Uniform Commercial Code a satellite may be adequate security for a loan. Security interests in the satellite are recorded in a state registry. However, many other countries do not have such asset-based financing. There is no international registry of security interests in space assets. The proposed UNIDROIT Convention on Security Interests in Mobile Equipment would establish such an international registry. A uniform legal regime unifying the law governing financial security in space property and creating an international registry of

security interests would not only protect financiers but would greatly benefit the international space business. 1/ UNIDROIT has made much progress on a special Aviation Protocol which would create a uniform legal regime with an international registry of financial interest for the aviation industry under supervision of the International Civil Aviation Organization (ICAO). This paper will specifically focus on the possibility of creating a special Protocol which would do the same for space property. The Paper will examine whether UNIDROIT could create such a registry under the supervision of the United Nations Committee for the Peaceful Uses of Outer Space (COPUOS) or some other international agency.

Financiers of space assets are constantly watching their security interests after the property has been turned over to the debtors. Financiers fear that the property may disappear or deteriorate. The financiers need to be able to seize control of the space property in case of default on payments, to control space assets when the debtor goes into bankruptcy or insolvency, and when the space assets are seized by the debtor's creditors; also the financiers need to be able to control the space assets when the debtor deliberately tries to sell the assets or lease the property thereby violating the financing agreement; and finally the financiers may need to recover the space property when the debtor seeks new

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loans and tries to give the new creditors priority over the pre-existing creditors. 2/ These concerns of financiers are regulated currently only by national legislation such as the U. S. Uniform Commercial Code. However, national codes are not entirely effective in controlling international space business transactions. A uniform international code would vastly increase the protection of financiers and encourage them to finance transactions involving space property.

Several issues are raised how the proposed UNIDROIT Convention on Secured Interests in Movable Property can best be shaped to resolve problems and improve financing for international business involving space assets: What will be the relationship between international and existing national regimes such as the UCC? Would the international regime supersede or supplement the national regimes? Who would oversee and who would administer the international registry of financial interests? What would be the international law on establishing, maintaining and terminating security interests?

The United States UCC is not Federal law. It is the law of the individual 50 states. Consequently there are 50 registries for secured interests in the United States. For US domestic space commerce that often necessitates multiple state registrations. Furthermore, a question may be raised whether satellites being located in outer space are subject to the secured interests laws of the fifty states.

The UCC Section 9-103(3) provides that the law of the debtor's principal

place of business governs the perfection of the security interest. However, if it is agreed to locate the secured property in another jurisdiction, then the law of that jurisdiction will govern perfection of the security interest. Therefore, under the UCC, it is important to stipulate the jurisdiction whose law shall be applicable. UCC Section 9-203 governs the actual attachment of the security interest to the space property 3/ Finally, the UCC, Section 9-312(5), gives first priority to the first creditor who files.

Other countries tend to apply the law of the place of the movable property (*lex situs*); that has the undesirable effect of the law changing when the movable property changes location. 4/ These countries tend to protect security interests by giving use of the property to the debtor but having the creditor retain title and ownership. Several countries like France, Germany and Italy have created public registries for security interests in cars and other mobile property. 5/ A World Bank study shows that while movable property is extensively used as collateral in developed countries, that is not so in developing countries which tend to lend money only when secured by real estate. Thus the World Bank supports reform of the capital market that would encourage new laws making it possible to obtain loans secured by movable property. 6/

B. The UNIDROIT Proposed Convention on Security Interests

What is UNIDROIT? UNIDROIT is an independent international treaty organization located in Rome, Italy. Its purpose is to harmonize private law

through treaties and model law. The UNIDROIT Treaty, Article 1 states “The purpose of the International Institute for the Unification of Private Law is to examine ways of harmonizing and coordinating the private law of States and groups of States, and to prepare gradually for the adoption by various states of uniform legislation in the field of private law.” 7/ Most space-faring nations are members of UNIDROIT. Thus UNIDROIT has a proper legal mandate to work on international unification of the security laws governing space property.

Legal experts have felt that unification of the law of security interests in movable property would be very difficult because of the difference between existing national laws. 8/ It was very ambitious of UNIDROIT to consider unification of the law governing all types of security interests. Nevertheless, in 1991, the UNIDROIT Council decided to establish a working group to do so. It began its deliberations in 1992. From the very beginning the working group decided to include space assets (“satellites”) within its definition of mobile property to be covered by the convention. 9/ The impossibility of unifying all mobile property became apparent to the drafters; however, such broad-scale interference with domestic law appeared unwarranted. Finally it was decided to limit the scope of the Convention “to a relatively small number of high value assets the common feature of which is that they all move regularly across or beyond national frontiers in the ordinary course of business: aircraft and helicopters, including engines, registered ships, oil rigs, containers, railway rolling stock and space property.” 10/

Consequently Article 2 of the draft UNIDROIT Convention on International Interests in Mobile Equipment, approved by the UNIDROIT Governing Council at its 79th session, held in Lisbon 10 - 15 April, 2000 includes “space property” within the scope of the Convention. 11/

Art 2 of the basic UNIDROIT Convention on International Interests in Mobile Property is structured to create an international interest in mobile property. An international interest is defined as a unique interest in mobile property which is:

- “(a) granted by the chargor under a security agreement:
- (b) vested in a person who is the conditional seller under a title reservation agreement; or
- (c) vested in a person who is the lessor under leasing agreement “

It is interesting that international interests in mobile property by definition include not only security interests (the UCC type security interest) but also financier interests under the title retention agreements (the European approach), as well as the interests of persons who are lessors under leasing agreements. The drafters realized the similarity among these different approaches to financing of mobile property. They are functionally equivalent. All three are likely to be used in regard to financing of space property. The Convention will apply if the debtor is located in a contracting state. It does not matter where the creditor is located. 12/

Chapter III of the draft Convention provides the creditors with basic remedies in case of default by the

creditor. The creditor may “(a) take possession or control of any object charged to it; (b) sell or grant a lease of any such object; (c) collect or receive any income or profits from the management or use of any such object.” The financier may apply for a court order authorizing or directing any of these three default remedies.” 13/

International registry of financial interests in mobile property is at the core of the draft Convention, because registration establishes which interests are protected by the Convention and the priority of claims. Chapter IV of the draft Convention provides for international registry of those interests that are within the scope of the Convention. Art. 15 provides that different international registries may be created for different categories of mobile property. It is currently envisaged that separate registries will be created for space assets, aviation assets, and for railroad rolling stock. However, it would also be possible to combine these three into one or two registries. Many aviation manufacturers, such as Boeing, are also major manufacturers of space products, so there is some overlap of interest between these two. There is less overlap of interest between manufacturers and owners of rail and aviation assets and thus less likelihood of joint registry for these two categories.

Who shall supervise and administer the registries? Article 15 establishes the function of the supervisory authority to (1) create the International Registry; (2) appoint and dismiss the Registrar; (3) write regulations for operation of the Registry; (4) receive complaints about the operation of the Registry; (4) supervise operation of the Registry; (5)

give guidance to the Registrar; (6) establish a fee schedule for the Registry’s services; (7) ensure compliance with the objectives of the convention and protocol; and (8) make periodic report to the member states. This extensive list of duties immediately provokes the question: Which international agency can assume these functions for the registration of international interests in space property? That question is discussed at length below. 14/ However, it is important to know that plans to establish a separate registry for aviation under the supervision of ICAO are well advanced, and registry for railroad rolling stocks is also advancing. The time for planning a registry for interests in space property and to identify who shall supervise and administer this registry is now.

The draft Convention states the registration requirements; 15/ when registration takes effect; 16/ who may register; 17/ duration of registration; 18/ searches of the Registry; 19/ a list of declared non-consensual rights or interests of member states; 20/ evidentiary value of certificates of registration; discharge of registration; 21/ and access to the registry. 22/ The international registry is planned to be fully computerized and to be accessible by electronic means so that anyone can access the registry from anywhere in the world, anyone considering financing a satellite can ascertain whether anything is registered regarding that satellite and the nature of any registrations. The huge advantage of this information can only lead to greater confidence of financiers in making asset-based financing available for purchase of space property.

The UNIDROIT Convention adopts the basic principle that whoever registers first in time has priority. 23/ In the case of debtor's insolvency, the creditor retains the rights that the creditor had before insolvency occurred. 24/

Financial interests in space property frequently are bought and sold subsequent to their establishment, so the Convention provides that registered interests may be assigned in toto or in part. 25/

The parties to a financing agreement may select the court to exercise jurisdiction over potential claims. 26/ However, if the parties do not select the court, then the courts of a member state having jurisdiction under the law of that member state may exercise jurisdiction over claims brought under the Convention. 27/

C. The Protocols to the UNIDROIT Convention

The legal relationship between the UNIDROIT Convention and each Protocol is that a state need only join one Protocol and will then only be obligated by the UNIDROIT Convention, as modified by that Protocol. Each Protocol will make different modification to the basic UNIDROIT Convention. It will be possible for States to be members of the UNIDROIT Convention in relation to one Protocol only.

The UNIDROIT Convention defines a "Protocol" as the Protocol regarding a specific category of property to which the Convention applies. Art 2 of the Convention states three categories, each of which is contemplated to be the

subject of a separate Protocol. The categories are: airframes, aircraft engines and helicopters (so-called Aviation Protocol), railway rolling stock (so-called Rail Protocol), 28/ and space property (so-called Space Protocol) Each Protocol is intended to supplement and to implement the basic UNIDROIT Convention. Of the three Protocols, the Aviation Protocol is furthest in development and thus it is of interest as a possible model for the Space Protocol.

1. Aviation Protocol

ICAO's interest in the Aviation Protocol 29/ is clearly motivated by the aviation industry's heavy dependence on debt financing. 30/ Article 1 of the Aviation Protocol 30/ defines its sphere of application. The parties to a financing agreement may waive or derogate from the terms of the Protocol by written agreements. 32/ The aviation property will be identified by the manufacturer's name, model classification and serial number. 33/ The Aviation Protocol contains a number of modifications of the UNIDROIT Convention: Art. IX, modification of default remedies; Art X, modification of provisions regarding relief pending final determination; Art XI, remedies in insolvency; Art XII, insolvency assistance; Art XIII, de-registration and export authorization; Art. XIV, modification of priority provisions; Art XV, modification of assignment provisions.

ICAO is contemplated as the supervisory authority. The International Air Transport Association (IATA) was originally contemplated as the Registrar. Other options are now being considered. ICAO would prepare the

regulations governing the operation of the International Registry. Each contracting state may establish designated entry points through which registration information regarding aircraft and helicopters on its national Registry shall or may be communicated to the Registrar. 34/

Aircraft property will be identified in the Registry by the manufacturer's serial number. Discharges shall be completed within five calendar days. Fees shall be reasonable, and the Registry may be a non-profit making organization. 35/

The Aviation Protocol provides that waivers of sovereign immunity from the jurisdiction of the courts in respect of claims brought under the convention shall be binding. 36/

The UNIDROIT Convention will supersede the 1933 Convention for the Unification of Certain Rules Relating to the Precautionary Attachment of Aircraft 37/ as it Concerns Aircraft Defined in the Aviation Protocol.

The Aviation Protocol contains a draft for irrevocable de-registration from the national aircraft register and export request authorization transferring the owner/operator's interest to a designated person (the creditor's designees) in order for the creditor to obtain possession of the property. 38/

The Aviation Protocol is well defined and can serve as model for protocols covering international interests in the two other categories of property. The Aviation Protocol is scheduled for a diplomatic conference in South Africa in May, 2001.

2. Space Protocol.

A space industry space working group has prepared a draft of a preliminary Space Protocol under the leadership of Peter Nsgos. It is advising UNIDROIT. The draft Space Protocol 39/ closely follows the Aviation Protocol. The scope of the Protocol's application can be deduced by the definition of space property subject to the Protocol. The initial thinking was to confine application of the Protocol to property that is in space, except that space property continues to be subject to the Protocol after its returns to Earth. The definition of property will probably include both tangible and intangible property. The space working group proposes that space property be described by reference to the manufacturer's name, model classification and serial number, similar to Art. VII of the Aviation Protocol, and also by indication of intended location in space.

The Space Protocol would also contain modifications to the UNIDROIT Convention, including modification of default remedies, the provisions regarding relief pending final determination, and the remedies in insolvency to provide insolvency assistance. It might also have a provision on de-registration and export authorization, possibly modification of priority provisions, and modification of assignment provisions. One particularly interesting legal issue is how to repossess a satellite which is orbiting in non-sovereign outer space. Seizure of the earthly control instrumentation, rather than physical seizure of the satellite orbiting in space appears likely. The Space Protocol would define the

extent to which parties could waive or derogate from the terms of the Protocol by written agreements.

Whether UNIDROIT itself will become sole sponsor of the Space Protocol, or whether an international governmental space organization, similar to ICAO, will supervise the registry of secured interests in space property has yet to be determined. One logical supervisor would be the United Nations Committee for Peaceful Uses of Outer Space (COPUOS). 40/

If COPUOS were interested would it become the supervisory authority? Could a private contractor or a non-governmental organization such as the International Astronautical Federation (IAF) best serve as registrar of a international interests in space property? Several other possibilities exist. A system of fees could be established, sufficient to reimburse the supervisor and maintain the registry. Conceivably the registry could be a non-profit making organization. The supervisory authority would have to establish regulations for the operation of the Registry.

The COPUOS meeting in June of 2000 agreed to consider the Space Protocol and the Draft Convention as a single issue discussion item at their next meeting in April 2001. 41/ The legal issues under discussion will not only be the interest of COPUOS in participating in the Space Protocol, but also how such participation will fit into the legal mandate of COPUOS under the existing space law treaties as well as UN administration. Both the COPUOS and the UNIDROIT lawyers will be preparing legal studies in preparation for the Spring 2001 COPUOS Legal

Subcommittee meeting. Furthermore, UNIDROIT held preparatory meetings in October, 2000 in order to discuss the relationship between the UNIDROIT drafts and the space law treaties, and to discuss which international agency could best supervise an international registry for space interests.

Both the Aviation Protocol and the Rail Protocol are moving forward rapidly. So far the history of the UNIDROIT Convention has been that those who have declined to participate, (such as the maritime industry) and those categories which have not indicated sufficient interest, or have been dilatory, have been left aside by the drafters. Only three categories are currently left in the UNIDROIT draft Convention. This history indicates that space property could be left out of the UNIDROIT Convention if the interested parties fail to seize the initiative. The alacrity with which ICAO (aviation industry) became involved is currently contrasted by the slow pace with which COPUOS is proceeding on this issue. So the danger of forfeiture by the space industry is a reality at this time.

Naturally, the countries with the most space industry, such as the United States, Russia, China, Japan, and the ESA countries, have the greatest interest in this debate. Stakeholders are not only space companies such as Lockheed, Boeing and Loral, but also the financial institutions that lend money, and the purchasers of space property such as PANAMSAT, COMSAT, Direct TV, and many others that obtain financing for the purchase and operation of satellites and other space property. Trade organizations also have an interest in the outcome of this debate.

II. Relevance of Existing Space Law Treaties to COPUOS Activity Under UNIDROIT Convention.

Does COPUOS have a legal mandate to participate in the Space Protocol? All the existing five space law treaties and the five United Nations Assembly Resolution on Outer Space were drafted under auspices of COPUOS. They were not only shaped by COPUOS but they also serve as its legal mandate. Furthermore, implementation and supplementation of these treaties is the task of COPUOS which is currently reviewing these treaties for possible changes and additions. Most relevant legal instruments are the 1967 Treaty on Principles Governing the Activities of States in the Exploration and use of Outer Space, Including the Moon and Other Celestial Bodies, 42/ and the Convention on Registration of Objects launched into Outer Space. 43/

A. The 1967 Outer Space Treaty

The nature of the 1967 Outer Space Treaty is to provide a broad legal mandate for free “use of outer space.” Furthermore, outer space use shall be “without discrimination of any kind.” 44/ These principles very likely would also find their way into any Space Protocol in which COPUOS would have a role. The non-discrimination clause is the same as found in the UNGA Remote Sensing Resolution, Principle XII; for example the international space registry would charge all parties for its services without discrimination.

Art. VIII of the Outer Space Treaty is essential to regulation of ownership of space property in outer space. It provides that states: 45/

on whose registry a launched space object is carried shall retain jurisdiction and control over such object, and over any personnel thereof, while in outer space or on a celestial body. Ownership of objects launched into outer space, including objects landed or constructed on a celestial body, and of their component parts, is not affected by their presence in outer space or on a celestial body or by their return to the Earth.

Thus the law of the launching state governs the issue of whose property is a space object. 46/ It lays the foundation for the UNIDROIT Convention by enabling the states to enter into provisions of the UNIDROIT Convention giving financiers the legal right to reclaim control over space property under the control of delinquent debtors.

B. Convention on Registration of Objects Launched into Outer Space

The Registration Convention establishes legal precedent for the registration of space property located in outer space. The Registration Convention, Art. II, clarifies the question of which law governs space objects by providing that the state of registry is the “launching state on whose registry a space object is carried.” In other words only one state can be the state of registry entitled to exercise sovereign rights over space objects under the 1967 Convention, Art

VIII. If two or more states qualify as launching states, they shall determine among themselves which of them shall register the space object. 47/

The Registration Convention provides for dual registration. Each State may register its space objects. Additionally the UN registers space objects in the UN registry pursuant to Art IV of the Registration Convention. The UN Registry is maintained by the UN Secretary General. The Registry is open for examination without restriction. 48/ The UN Registry lists the name of the launching State; designation or registration of the space object; the date and territory or location of launch; orbital parameters (nodal period, inclination, apogee, perigee). The Secretary General makes adjustments and modifications of information in the UN Registry in accordance with receipt of additional information subsequent to the original filing.

The UN Registry is different from the electronic registry contemplated by the UNIDROIT Convention. While registration in the UN Registry is by the states, the UNIDROIT Registry contemplates registration by private companies. Furthermore, the UNIDROIT Convention envisions registration of international interests by a separate international registry for the debt financing. A combination of the two could involve either revision (expansion) of the Registration Convention, or modification by a treaty later in time (supersession), such as the UNIDROIT Space Protocol, or both.

The major purpose of registration with the United Nations under the Registration Convention is for the

launching state to give notice to other states where its space objects are located so that registered objects can be avoided. Expansion of the U.N. registry to include secured interests in space property would be difficult to achieve. U.N. supervision of a special registry by a separate registry of secured interests would be more feasible.

C. 1968 Agreement on the Rescue of Astronauts, the Return of Astronauts and the Return of Objects Launched into Outer Space.

The 1968 Agreement on the Rescue of Astronauts, the Return of Astronauts and the Return of Objects Launched into Outer Space, Art. 5, 49/ provides for return of satellites and their components to, or placing them at the disposal of the state of registry when such space property is found. If ownership of the space property, according to the UNIDROIT Convention belongs to a creditor in a country other than the country of registry, these two conventions could conflict. 50/

D. Other United Nations Considerations Regarding Undertaking a Supervisory Role for the International Space Registry

U. N. activities are affected not only by substantive treaties such as the space treaties. They are also affected by other treaties including the UN Charter. The UN is notoriously short of operating funds. Thus it is important to determine exactly who would act in the role of the supervisory authority contemplated by the UNIDROIT Convention. If the Aviation Protocol is used as the model, the ICAO President, representing the ICAO Organization would assume the

supervisory role, which would be performed by ICAO staff per direction of the ICAO President subject to reimbursement of all expenses from the fees charged by the International Registry . Similar to ICAO , the UN Secretary General could assume the supervisory role (subject to reimbursement of all UN expenses from the fees charged by the Space Property Registry) . The UN Secretary General would act with the assistance of UN staff, whether from the Office for Outer Space Affairs (OOSA) or special contract staff. Consequently, the Space Protocol should not only allow for adequate funding (through the fees) for all UN supervisory activities but should also specify the duties that The Secretary General is required to perform.

III. Conclusion

Analogy to the Aviation Protocol is the major guide for the Space Protocol. The Aviation Protocol has been considered by ICAO (ICAO Legal Committee). ICAO is of the view that the Chicago Convention 51/ charges ICAO with responsibility for aviation, and that ICAO thus has legal authority to become the supervisory authority for the Aviation Protocol. Likewise, it can be argued that the United Nations, acting through COPUOS and the UN Office for Outer Space Affairs, is charged by the space treaties with responsibility for space activities and has by analogy to ICAO general legal authority to supervise the registry of secured interests in space property. The cost of UN supervisory activities would be provided by the users who would benefit from the existence of such a registry.

Each UN organization has its turf. Thus it may be difficult for these UN organizations to experience crosscutting, multi-layer international effort such as the UNIDROIT Convention which was originally designed to resolve the debt problems for all mobile equipment. It spans across rail, aviation and space property interests. That is not the only disconcerting thing about the current project. The project originates in a treaty organization, which is outside the UN family. Nevertheless, UNIDROIT is a long established global treaty organization with membership of many states. It is working squarely within its area of expertise, that is, unification of private law. UNIDROIT's member states are also members of the United Nations. The interests of the states is to reach the best possible outcome: unification of laws relating to asset-based financing. The international organizations serve the member states. It should be in the interest of the member states to have UN organizations, such as COPUOS work together with UNIDROIT to achieve optimum facilitation of space business. Within the UN family itself there is precedent for private international conventions that affect a broad range of subjects. The best example may well be the International Sales Convention 52/ which affects all international sales. This convention was produced in the United Committee for International Trade Law (UNCITRAL). The Sales Convention has achieved universal acceptance, setting an example for the UNIDROIT Convention.

Finally the relationship between the national laws on debt financing, such as the UCC, and the international regime

must be resolved. Will the international regime supersede the national regime? Will the UNIDROIT regime enable financiers to obtain all relevant information from the International Space Registry, or will the financier still have to examine registers established under national laws? Will the priorities under the international regime supersede priorities under the national regimes? 53/ This is a question that will not be answered until the UNIDROIT Space Protocol is final.

FOOTNOTES

Reference is made to the author's two previous articles on this subject; see Larsen, *Creditor's Secured Interests in Satellites*, 34 *Coll. on the Law of Outer Space* (1991), and Larsen & Heilbock, *UNIDROIT Project on Security Interests: How the Project Affects Space Objects*, 64 *J. Air L. & Com.* 1 (1999). Most recent treaty and protocol drafts were approved by the UNIDROIT Governing Council at its 79th session, held in Lisbon from 10 to 15 April, 2000. The author is a member of the UNIDROIT Space Working Group.

1. Larsen and Heilbock, *UNIDROIT Project on Security Interests: How the Project affects Space Objects* (hereinafter cited as *Larsen & Heilbock*), 64 *J. Air L. & Com.*, at 47 - 48.

2. Larsen, *Creditors Secured Interests in Satellites*, 34 *Coll. on L. of Outer Space*, at 233 (1991).

3. UCC, Sec. 9-203. Security interest attaches when: (1) the debtor enters into a security interest agreement with the creditor and the agreement describes the

collateral; (2) the loan has been issued for value; (3) the debtor has rights in the collateral. Then the financier may file the security interests in the appropriate registry for the purpose of obtaining the protection of the law.

4. Martin Stanford, *Commentary on UNIDROIT's project for the creation of a new regimen governing the taking of security in high-value mobile assets: a window of opportunity in the context of the privatization and commercialization of space*, *Proceedings of the Workshop on Space Law in the Twenty First Century*, UNISPACE III Tech. Forum, July 1999, at 148 (hereinafter referred to as *Stanford*). Martin Stanford is principal UNIDROIT Research Officer for the project).

5. Larsen & Heilbock, *supra* n.1, at 10.

6. Fleissic, *Secured Transactions: The Power of Collateral*, *Fin & Dev.*, June 1996, at 44. Also see Fleissig, *The Proposed UNIDROIT Convention on Mobile Equipment: Economic Consequences and Issues*, Vol. IV *Uniform Law Review* 253 (1999-2)

7. 15 U.S.T. 2503. UNIDROIT has 58 member States.

8. Prof. Ronald C.C. Cuming, *Study of International Regulation of Aspects of Security Interests in Mobile Equipment*, UNIDROIT Study LXXII- Doc. 1, at 2. Cuming, *Considerations in the Design of an International Registry for Interests in Mobile Equipment*, Vol. IV *Uniform Law Rev.* 275 (1999-2). Roy Goode, *The Preliminary Draft UNIDROIT Convention on International Interests in Mobile Equipment: The next Stage*, *id.* at 265.

9. The 1992 UNIDROIT working group had before it the paper cited in note 2 supra.

10. Stanford supra note 4, at 149.

11. Draft UNIDROIT Convention on International Interests in Mobile Equipment, as approved by the UNIDROIT Governing Council at its 79th session, held in Lisbon from 10 to 15 April 2000, (hereinafter called the UNIDROIT Convention), Art. 2.

12. Id at Art 3.

13. Id. Art. 7.

14. Se discussion at n. 37 infra.

15. UNIDROIT Convention, Art 17.

16. Id. Art 18.

17. Id. Art. 19.

18. Id. Art. 20.

19. Id. Art. 21.

20. Id. Art. 22.

21. Id. Art 24.

22. Id Art. 25.

23. Id. Art. 28.

24. Id. Art. 29.

25. Id. Art 30.

26. Id. Art 41.

27. Id. Art 44.

28. The Rail Protocol will be co-sponsored by UNIDROIT and by the Intergovernmental Organization for

International Carriage by Rail (O.T.I.F).. O.T.I.F. has declared its willingness to serve as supervisor of the Registry of international rail interests under the UNIDROIT Convention. Howard Rosen, Creating an international Security Structure for Railway Rolling Stock: An idea Ahead of its Time? Vol. IV Uniform Law Rev. 313 (1999-2). Gerfried Mutz, Le regime international pour les garanties propose par UNIDROIT: l'interet du secteur ferroviaire et de l'OTIF an particulier, id at 469; also id. at 576.

29. UNIDROIT Convention on International Interests in Mobile Equipment as applied to aircraft objects as approved by the UNIDROIT Governing Council at its 79th session, held in Lisbon from 10 to 15 April 2000 (Hereinafter called the Aviation Protocol)

30. Aviation Protocol originates in the aviation industry working group which has membership of the major manufacturers, banks and financial institutions and is strongly supported by IATA. The aviation working group is chaired by Jeffrey Wool. See Wool, The Case for a Commercial Orientation to the Proposed UNIDROIT Convention as applied to Aircraft Operations, Vol. IV Uniform Law Rev. 281 (1999-2).

31. Aviation Protocol, supra n. 28, at Art I.

32. Id. Art. III.

33. Id. Art VII

34. Id. Art. XVIII.

35. Id.

36. Id. Art. XXI
37. See text of Convention for the Unification of Certain Rules Relating to the Precautionary Attachment of Aircraft, Shawcross and Beaumont on Air Law, Vol II, at 80. (3rd Ed.)
38. See Art. XIII Deregistration and Export Authorization.
39. Current Working Draft of a Preliminary Draft Protocol (Space Protocol) to the Preliminary Draft UNIDROIT Convention on International Interests in Mobile Equipment on Matters specific to Space Property prepared January 2000 for discussion within the Space Working Group by Peter Nesgos as one of the coordinators of the space working group.
40. See further discussion at II infra. Also see Panahy and Mittal, the Prospective UNIDROIT Convention on International Interests in Mobile Equipment as Applied to Space Property, Vol. IV Uniform Law Rev. 303, 308 (1999-2).
41. Committee for Peaceful Uses of Outer Space, Legal Subcommittee session, Spring 2000
42. Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, Including the Moon and Other Celestial Bodies, (hereinafter 1967 Outer Space Treaty), 610 UNTS 209.
43. Convention on Registration of Objects Launched into Outer Space (hereinafter the Registration Convention), 1023 UNTS 15.
44. 1967 Outer Space Treaty, supra n. 42 at Art 1.
45. Id. Art VIII.
46. Id.
47. Registration Convention, supra n. 43, Art. II
48. Id. Art. III.
49. Agreement on the Rescue of Astronauts, the Return of Astronauts and the Return of Objects Launched Into Outer Space (hereinafter the Aids to Astronauts Convention), 672 UNTS 119, Art 5.
50. This potential conflict is further complicated by the Agreement Governing the Activities of States on the Moon and other Celestial Bodies, 1363 UNTS 21 (hereinafter the 1979 Moon Treaty), Art 12, which provides that space property found on the moon and anywhere within the solar system shall be treated in accordance with the Aid to Astronauts Convention, Art 5).
51. Convention on International Civil Aviation (Chicago Convention), 61 Stat. 1180.
52. United Nations Convention on Contracts for the International Sale of Goods, the United Nations Commission on International Trade Law, at 59 (1986)
53. A thoughtful article in the Journal of Air Law and Commerce suggest that the answer to this question will be what will most benefit the industry. See Terena Rodrigues, International Regulation of Interests in Aircraft: The Brazilian

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J. Air. L. & Com, 279 (2000).**